

STATE HUMAN RIGHTS COMMITTEE

Carolyn M. DeVilbiss, Chair  
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T.C. Bullock, Vice-Chair  
South Hill

John Barrett  
Richmond

Ann Bevan  
Mechanicsville

Penny Cameron  
Reston

Victoria Cash Graff  
Staunton

Marietta Cottingham  
Hampton

Timothy Russell  
Williamsburg

Ioannis Stivachtis  
Blacksburg



Margaret S. Walsh  
State Human Rights Director

Kli Kinzie  
Executive Secretary

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## COMMONWEALTH of VIRGINIA

*Department of Behavioral Health and Developmental Services*

*Post Office Box 1797  
Richmond, Virginia 23218-1797*

### **DRAFT MINUTES STATE HUMAN RIGHTS COMMITTEE**

New River Valley CSB  
Montgomery Center  
700 University City Boulevard  
Blacksburg, Virginia  
24060

**Thursday, September 12, 2013**

**Special Meeting**

**3:00 p.m.**

- Members Present** Carolyn M. DeVilbiss, Chair de Facto, Ann Bevan, Penny Cameron, Vicki Cash Graff, Marietta Cottingham, Timothy Russell, Ioannis Stivachtis
- Staff** Kli Kinzie, Secretary  
Karen Taylor, DBHDS Special Council  
Margaret Walsh, Human Rights Director
- Call to Order** *At 3:00 Carolyn DeVilbiss called the September 12, 2013, Special Meeting of the SHRC to order.*
- Appeal:** Poplar Springs Hospital v. Petersburg Regional LHRC in the matter of D.B. The SHRC continued deliberation for Poplar Springs Hospital's appeal of the findings of Petersburg Regional LHRC in the matter of D.B.
- This case came before the State Human Rights Committee (SHRC) on July 19, 2013 appealing the May 3, 2013 decision of the Petersburg Regional Local Human Rights Committee (LHRC) following a fact finding hearing that took place on April 19, 2013. In accordance with 12 VAC 35-115-50 D, the SHRC unanimously voted to extend the timeframe for the receipt by the parties in this matter to September 30, 2013. On September 12, 2013 the SHRC met to continue its consideration of this case.

*Upon a motion by Penny Cameron and seconded by John Barrett the SHRC convened in closed session. Upon reconvening in open session*

*each member certified that only public business matters related to the closed session were discussed in closed session.*

- 1. Upon a motion by Timothy Russell and seconded by Ioannis Stivachtis the SHRC unanimously upholds the LHRC's finding of violation of §12 VAC 35-115-50 B (2) for being called a demeaning name.*
- 2. Upon a motion by Timothy Russell and seconded by Ioannis Stivachtis the SHRC unanimously voted not to uphold the LHRC's finding of violation of §12VAC-35-115-50 C (2) for VL being denied a nutritionally adequate diet.*
- 3. Upon a motion by Ioannis Stivachtis and seconded by Timothy Russell the SHRC unanimously remands the complaint of violation of §12VAC 35-115-50 C 3 a. for misplaced items back to the LHRC because of insufficient evidence to review the complaint.*
- 4. Upon a motion by Vicki Cash Graff and seconded by Penny Cameron SHRC unanimously voted not to uphold the LHRC's finding of violation of §12 VAC 35-15-50 C 7 regarding VL being made to use a speaker phone. There is evidence that VL's mother consented to the use of the speaker phone.*
- 5. Upon a motion by Vicki Cash Graff and seconded by John Barrett the SHRC unanimously remands the complaint of violation of §12 VAC 35-115-60 A and A (5), Services regarding access to sharps and dangerous objects back to the LHRC to be reviewed under section 12 VAC 35-115-50 Neglect.*
- 6. Upon a motion by Timothy Russell and seconded by Ioannis Stivachtis the SHR unanimously remands the complaint of violation of §12 VAC 35-115 60 A. 5 back to the LHRC for review. Since there is no 12 VAC 35-115- 60 A 5 the SHRC is unable to render a decision on this matter and requests that the LHRC rehear the complaint under the appropriate section such as 12 VAC 35-115-70, A 2.*
- 7. Upon a motion by Penny Cameron and seconded by John Barrett the SHRC unanimously voted not to uphold the LHRC's finding of violation of §12 VAC 35-115-60 for failure to create an environment of safety.*
- 8. Upon a motion by Vicki Cash Graff and seconded by Ioannis Stivachtis the SHRC unanimously Upholds the finding of violation of §12 VAC 35-115-80 A, Confidentiality for conducting family sessions with doors open.*
- 9. Upon a motion by Penny Cameron and seconded by Ann Bevan the SHRC unanimously voted to take no action on the LHRC's*

*decision on the alleged violation of §12 VAC 35-115-80 regarding the release of another individual's records to the LHRC. This matter is not properly before the SHRC for review as part of this complaint*

*10. Upon a motion by Vicki Cash Graff and seconded by Penny Cameron the SHRC unanimously upholds the finding of violation of §12 VAC 35-115-90 A (1), Access to and Amendment of Services Record.*

*11. Upon a motion by Penny Cameron and seconded by Vicki Cash Graff the SHRC unanimously upholds the finding of violation of §12 VAC 35-115-170 Complaint Resolution Process.*

**Recommendations:**

*Upon a motion by Vicki Cash Graff and seconded by John Barrett the SHRC unanimously supports recommendations 1 – 4.*

*Upon a motion by Ann Bevan and seconded by Penny Cameron the SHRC unanimously voted to support recommendation 5 as amended to read:*

*PSH should review their policies and program rules regarding implementation of restrictions (including phone/privacy). PSH should present to the LHRC the policies on this matter.*

*Upon a motion by Vicki Cash Graff and seconded by Penny Cameron the SHRC unanimously voted to support recommendations 6 – 10 as written.*

*Upon a motion by Penny Cameron and seconded by John Barrett the SHRC vote to strike recommendation 11 by a vote of 6:2.*

*Upon a motion by Vicki Cash Graff and seconded by John Barrett the SHRC unanimously supports recommendations 12- 13 as written.*

*Upon a motion by Ioannis Stivachtis and seconded by Timothy Russell in regards to recommendation 14 the SHRC unanimously finds evidence that the submission of an individual's record to the Petersburg LHRC not under review may in fact constitute a violation of that individual's confidentiality right. As such, PSH should take all necessary steps to mitigate this unauthorized disclosure. The SHRC makes this finding on its own initiative pursuant to §12 VAC 35-115-250 E, 3.*

*Upon a motion by Vicki Cash Graff and seconded by Ann Bevan the SHRC unanimously supports recommendations 15 – 17 as written.*

*Upon a motion by Penny Cameron and seconded by Ioannis Stivachtis the SHRC unanimously supports recommendation 18 as amended to read:*

PSH will be scheduled for a meeting to present and follow up the resolution of the findings at the next LHRC meeting.

**Adjourn** At 5:30 p.m. the meeting adjourned.

**Tour of Start** At 5:30 the SHRC travelled to Radford for a tour of the START Program. Those present for the tour were SHRC Members Ann Bevan, Marietta Cottingham and Ioannis Stivachtis. Also present were Kli Kinzie, Nan Neese and Margaret Walsh.

**Friday, September 12, 2013** New River Valley CSB  
Montgomery Center  
700 University City Boulevard  
Blacksburg, Virginia  
24060

**Administrative Session**

8:30 a.m.

**Members Present** Carolyn M. DeVilbiss, Chair de Facto, T.C. Bullock, Vice-Chair de Facto, John Barrett, Ann Bevan, Penny Cameron, Vicki Cash Graff, Marietta Cottingham, Timothy Russell, Ioannis Stivachtis

**Staff Present** Chuck Collins, Regional Human Rights Advocate, Region 1  
Kli Kinzie, Secretary  
Dwayne Lynch, Human Rights Advocate  
BJ McKnight, Human Rights Advocate  
Nan Neese, Regional Human Rights Advocate, Region 3  
Karen Taylor, DBHDS Special Council  
Margaret Walsh, Human Rights Director

**Others Present** Deborah Whitten-William

**Approval of Agenda** At 8:33 the SHRC approved the agenda with the addition of Officer Elections.

**Officer Elections** T.C. Bullock reported on the activities and recommendations of the Officers Sub-Committee.

*Penny Cameron nominated T.C. Bullock for Vice-Chairperson and Carolyn DeVilbiss for Chairperson*

*Upon a motion by Penny Cameron and seconded by Marietta Cottingham the SHRC unanimously appointed T.C. Bullock as Vice-Chairperson.*

*Upon a motion by Penny Cameron and seconded by Timothy Russell the SHRC unanimously appointed Carolyn DeVilbiss as Chairperson.*

**Correspondence and** At 8:36 the SHRC reviewed correspondence and information. The

<b>Information</b>	committee acknowledged receipt of a letter from the Resident Advisory Council of VCBR.
<b>Newsletter</b>	<p>The SHRC discussed ideas for format and content of the SHRC newsletter.</p> <p>Timothy Russell asked for the development of a standardized format for LHRCs to use when writing hearing responses, and a standardized format for parties to reference when petitioning for appeal to the SHRC. Margaret Walsh will ask human rights staff to develop guidelines. Karen Taylor will provide input on clarification of terms (i.e., fact-finding, etc.).</p> <p>The SHRC reviewed LHRC vacancies and the SHRC goals Workplan.</p> <p>The SHRC received notice that VOPA has been re-designated as an independent agency.</p>
<b>Other</b>	Timothy Russell reported on his presentation of the SHRC annual report to the DBHDS State Board.
<b>Welcome</b>	At 9:08 Deborah Whitten-Williams, New River Valley CSB Director of Financial and Support Services, offered welcoming remarks on behalf of Susan Baker, Executive Director. Ms. Whitten-Williams spoke briefly about the services offered and the populations served by the CSB.
<b>BREAK</b>	At 9:11 Carolyn DeVilbiss called for a break.

### **Regular Session**

9:18 a.m.

<b>Members Present</b>	Carolyn M. DeVilbiss, Chair de Facto, T.C. Bullock, Vice-Chair de Facto, John Barrett, Ann Bevan, Penny Cameron, Vicki Cash Graff, Marietta Cottingham, Timothy Russell, Ioannis Stivachtis
<b>Staff</b>	<p>Chuck Collins, Regional Human Rights Advocate, Region 1</p> <p>Kli Kinzie, Secretary</p> <p>Jennifer Kovack, Human Rights Advocate</p> <p>Beth Lee, Human Rights Advocate</p> <p>Dwayne Lynch, Human Rights Advocate</p> <p>BJ McKnight, Human Rights Advocate</p> <p>Nan Neese, Regional Human Rights Advocate, Region 3</p> <p>Karen Taylor, DBHDS Special Council</p> <p>Margaret Walsh, Human Rights Director</p>
<b>Others</b>	<p>Deborah Whitten-Williams, FASS, Financial and Support Services, NRV CS</p> <p>Dr. Anita Schlank, Clinical Program Director</p>

<b>Present via Telecom</b>	<p>Reginald T. Daye, Regional Human Rights Advocate, Region 5  Diane Exner, ID Director, Lutheran Family Services  Sarah Fuller, Executive Director, Norfolk Community Services Board  John Hatcher, Father of M.H., Party to an Appeal  Linda Hatcher, Mother of M.H., Party to an Appeal  Tammy Long, Human Rights Advocate  C.P., Complainant  Stewart Prost, Human Rights Advocate</p>
<b>Call to Order</b>	<p>At 9:18 Carolyn DeVilbiss called the regular session of the September 13, 2013, SHRC meeting to order. A call for introductions took place prior to proceeding.</p> <p>Ioannis Stivachtis welcome the SHRC and human rights staff to Blacksburg.</p>
<b>Review of Draft Minutes</b>	<p>The SHRC reviewed draft minutes of the July 19, 2013, SHRC meeting.</p> <p><i>Upon a motion by Timothy Russell and seconded by T.C. Bullock the SHRC unanimously approved the minutes of the July 19, 2013 SHRC meeting as amended.</i></p>
<b>Annual Report Region 3</b>	<p>At 9:21 Nan Neese welcomed the SHRC to Blacksburg and thanked them for coming to southwest Virginia. Ms. Neese introduced BJ McKnight and Dwayne Lynch, Human rights Advocates. Dwayne Lynch presented the annual report for Region 3.</p>
<b>Appeal: C.P. v. HPR V LHRC</b>	<p>At 10:00 the SHRC considered the appeal of C.P. v. HPR V LHRC. This case came before the State Human Rights Committee (SHRC) on appeal of a decision of Health Planning Region V (HPR V) Local Human Rights Committee (LHRC) following a fact finding hearing on May 24, 2013. Stewart Prost, Human Rights Advocate presented the case on behalf of C.P. Sarah Fuller, Executive Director of Norfolk Community Services Board represented the community services board. SHRC members present were Carolyn DeVilbiss, Penny Cameron, Vicki Cash-Graff, Timothy Russell, T.C. Bullock, John Barrett, Ann Bevan, Marietta Cottingham and Ioannis Stivachtis. Also present were Tasha D. Scott, Assistant City Attorney; Sally Berger, Bureau Manager for Corporate Compliance, Norfolk CSB; Sandi Lee, Consumer Relations Coordinator, Norfolk CSB; Margaret Walsh, Human Rights Director, DBHDS; Reginald T. Daye, Regional Human Rights Advocate, DBHDS; Kli Kinzie, Secretary, DBHDS; and Karen Taylor, DBHDS Special Counsel.</p> <p>At the client's request the hearing was held in closed session.</p> <p><i>Upon a motion by T.C. Bullock and seconded by Vicki Cash Graff the SHRC convened in closed session pursuant to Virginia Code §2.2-3711(1) for the purpose of discussion and consideration of</i></p>

*appointments to and removals from Local Human Rights Committees.*

Upon reconvening in open session, the State Human Rights Committee certified that to the best of each member's knowledge, only public business matters lawfully exempt from statutory open meeting requirements, and only public business matters identified in the motion to convene the closed session were discussed in closed session.

*Upon a motion by Penny Cameron and seconded by Ioannis Stivachtis the SHRC unanimously upholds the HPR V LHRC finding of no violation of 12 VAC 35-115-60 B5, Services.*

**Appeal:** J.H. v.  
Central Virginia  
Community Services  
LHRC

At 10:40 the SHRC considered the Appeal of J.H. v. Central Virginia Community Services LHRC. This case came before the SHRC on appeal of the decision of the Central Virginia Community Services (CVCS) LHRC following a fact finding hearing that took place on June 4, 2013. At the request of J.H. the appeal was heard in open session.

J.H and L.H. presented the case on behalf of their daughter M.H. via telephone with on-sight support from Ms. Beth Lee, human rights advocate. Ms. Diane Exner, via telephone, represented Lutheran Family Services (LFS). SHRC members present were Carolyn DeVilbiss, Penny Cameron, Vicki Cash-Graff, Timothy Russell, T.C. Bullock, John Barrett, Ann Bevan, Marietta Cottingham and Ioannis Stivachtis.

J.H and L. H. on behalf of their daughter M.H. filed a formal human rights complaint with the CVCS LHRC alleging that Lutheran Family Services violated L.H.'s rights under the *Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers of Behavioral Health and Developmental Services* (Human Rights Regulations). J.H and L. H. on behalf of their daughter M.H. disagree with the following CVCS LHRC findings:

1. No violation of 12 VAC 35-115-60 A. Services regarding the allegation that M.H. was discharged from services inappropriately.
2. No violation of 12 VAC 35-115-60 A. Services regarding the letter to LFS in February not being an act to terminate services but to temporarily discontinue services while LFS fixed the problems.

Parties to the case presented their arguments.

*By a vote of 9:0, the SHRC unanimously upholds the CVCS LHRC findings of no violation of 12 VAC 35-115-60 A Services for points 1 and 2 above.*

**VCBR Discussion**

At 11:17 Dr. Anita Schlank spoke with the SHRC about various issues

brought to the SHRCs attention during the course of regular meetings and especially as a result of discussions with the Resident Advisory Council (RAC) of VCBR. Tammy Long, human rights advocate, joined the discussion via speakerphone. Dr. Schlank talked about staff training, treatment models, completion of forms and checklists, progress reports, observation notes and incident records.

One issue mentioned by VCBR residents is that observation notes tend to be slanted. Margaret Walsh commented that this could be because it is not a regular practice to document good behavior. Days pass with nothing noted, then a bad incident is reported.

The SHRC talked with Dr. Schlank about the RAC's request for access to amend services records.

The SHRC will work with the office of human rights on RAC's issues and will send a response to the RAC.

#### **Public Comment**

At 11:56 Carolyn DeVilbiss asked for public comment.

*No public comments were offered.*

#### **Other Business**

##### **Reporting on Attending LHRC Meetings**

At 11:57 Carolyn DeVilbiss reminded SHRC members of their responsibility to attend LHRC meetings in their area. Each SHRC member should attend at least two LHRC meetings in their catchment area per year.

T.C. Bullock reported that he attended a meeting and tour of Brother's Keeper, LLC.

SHRC members should contact advocates regarding LHRC meeting dates and locations or visit the department's web site for information.

#### **LHRC Membership**

At 12:00 the SHRC considered local human rights committee membership.

*Upon a motion by T.C. Bullock and seconded by Vicki Cash Graff the SHRC convened in closed session pursuant to Virginia Code §2.2-3711(1) for the purpose of discussion and consideration of appointments to and removals from Local Human Rights Committees.*

Upon reconvening in open session, the State Human Rights Committee certified that to the best of each member's knowledge, only public business matters lawfully exempt from statutory open meeting requirements, and only public business matters identified in the motion to convene the closed session were discussed in closed session.

#### **Appointments**

*Upon a motion by Penny Cameron and seconded by Ioannis Stivachtis the SHRC unanimously moved to make the following appointments to local human rights committees.*



Region 1

Commonwealth Center for Children and Adolescents LHRC  
Reappoint: Ms. Deborah Atno-Shelton , Ms. Jennifer Cline  
Loudoun County LHRC  
Appoint: Mr. Charles Perso  
Northwestern CSB LHRC  
Appoint: Ms. Shelley Drago, Mr. Jack Starry, Sr.  
Rappahannock-Rapidan CSB LHRC  
Appoint: Mrs. Roberta Anderson, Ms. Beverly Young  
Rockbridge Area CSB LHRC  
Appoint: Ms. Ellen Watts  
Western State Hospital LHRC  
Reappoint: Mr. Mark Schorsch

Region 2

Arlington LHRC  
Appoint: Ms. Rosemary Christine Plummer  
Fairfax LHRC  
Appoint: Mr. Mike Hill  
Northern Va Hospitals LHRC  
Appoint: Mr. Steve Hornstein  
NOVA LHRC  
Appoint: Ms. Rosemary Neimo Pairick

Region 3

Mount Rogers LHRC  
Appoint: Mrs. Chris Bird

Region 4

SVTC LHRC  
Appoint: Mr. Edward E. Shultz, Jr.

Region 5

Eastern Virginia Regional LHRC  
Appoint: Ms. Donna Collier  
Genesis LHRC  
Ms. Denise L. Melton  
Hampton Regional LHRC  
Appoint: Ms. Pearlie H. Carrington  
Ms. Yvette Chase-Batts  
Health Planning Region V LHRC  
Appoint: Ms. Catherine L. Barnes  
Southeastern Virginia Training Center LHRC  
Appoint: Ms. Noni Johnson Welch  
Southside Regional LHRC  
Appoint: Mr. Steve P. Grimes  
Virginia Beach Area LHRC  
Appoint: Ms. Felicia F. Sawyer

*Upon a motion by Penny Cameron and seconded by Ioannis Stivachtis  
the SHRC moved to make the following appointment by a vote of 8:0  
with one abstention.*

Williamsburg Regional LHRC

Appoint: Ms. Elizabeth Clemmons  
TC out of exec. All certified.  
Penny moved, Yannis 2. John B abstained on the Williamsburg  
Regional appointment.

*At 1:23 the meeting adjourned.*

The next meeting is scheduled for Friday, October 25, 2013, at  
Riverside Behavioral Health Center on 2244 Executive Drive,  
Hampton, Virginia, 23666.

Respectfully Submitted,

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Carolyn M. DeVilbiss, Chair de Facto

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Kli Kinzie, Secretary